REMARKS

Reconsideration of the present application is respectfully requested. Claims 1-20 were pending. Claims 1, 8, 10, and 17 have been amended without introducing any new matter. No claims have been added or cancelled. Thus, claims 1-20 remain pending.

The Applicant thanks the Examiner for the courtesy of the telephone interview on September 21, 2006.

The Examiner rejected claims 1, 6, 7, 10, 15, 16, and 20 under 35 U.S.C. § 102(e) as being anticipated by U.S. Patent Pub. No. US 2001/0042023 of Anderson et al. (hereinafter "Anderson"). The Applicant does not admit that Anderson is prior art and reserves the right to swear behind the reference at a later date.

Anderson describes an order fulfillment system where a buyer places an order with a central computer system (Anderson, Abstract). Once an order is placed, supplier computer systems respond to the central computer with a particular supplier's status for the order (Anderson, paragraphs [0021-0035]). Suppliers must respond to the central computer system within a fixed time interval that the individual supplier can fulfill the order (Anderson, paragraphs [0021] and [0028]). The central computer system then selects a supplier from those suppliers that responded to the specific order (Anderson, paragraph [0028]; Abstract).

The Applicant recites in amended claim 1:

A method to be performed on a computing device for providing improved assignment of product orders to one or more of a plurality of fulfillers, the method comprising:
receiving an order that requires fulfillment from one or more fulfillers, said order comprising individual order items;

ranking said plurality of fulfillers from most favorable to least favorable, based on specified criteria;

evaluating a two-dimensional in-memory data structure, that indicates which of said one or more of the plurality of fulfillers can fulfill which types of said individual order items, to determine whether the order can be fulfilled by a single fulfiller;

when all order items of the order can be fulfilled by a single fulfiller, assigning fulfillment of the entire order to the most-favorable fulfiller that can fulfill all order items; otherwise

splitting the order by assigning fulfillment of individual order items to the most-favorable fulfillers that collectively can fulfill all order items.

(emphasis added).

Claim 1 provides for "evaluating a two-dimensional in-memory data structure, that indicates which of said one or more of the plurality of fulfillers can fulfill which types of said individual order items, to determine whether the order can be fulfilled by a single fulfiller." As acknowledged by the Examiner in the Office Action mailed October 4, 2006, Anderson fails to teach or suggest the noted limitation, and thus fails to anticipate claim 1.

In the Office Action, mailed October 4, 2006, the Examiner asserted that "Kamath discloses an online ordering system that maps out items ordered by a customer into the corresponding item identified utilized by the vendor determined to be capable of fulfilling an item order request in a hash table" (Office Action, page 10, second paragraph *citing* paragraph [0040] of U.S. Patent Pub. No. US 2002/0026373 A1 of Kamath et al.). The Applicant respectfully disagrees.

Kamath recites at paragraph 40:

[0040] FIG. 11 is a flowchart of another aspect of the present invention, in which a customer part, item and/or list identifier may be mapped to a vendor part number, item number and/or list or object identifier. The mapping may advantageously occur transparently to the customer, who only need input and/or select his or her own designation (or the corporate's designation) for the desired part, item, list and/or object

identifier from the vendor's Web site as shown at S101. <u>At S112, the identifier of the inputted and/or selected part, item, list and/or object mapped onto a corresponding vendor part, item, list and/or object.</u> For example, a hash table may be advantageously used to map the customer part, item, list and/or object identifier to the corresponding vendor part, item, list and/or object identifier. The vendor may then retrieve the vendor part, item, list and/or object identifier corresponding to the inputted and/or selected customer identifier, as shown at S113. Such vendor identifier may then be express ordered and/or may become a part of the customer's shopping cart. The functionality illustrated in FIG. 11 and described immediately above enables both the customer and the vendor to independently assign different identifiers for the same part, item, list and/or object. <u>For example, the online customer may assign the identifier "Standard Entry Level Computer For New Hire" to a list. When express or normal ordering such an item (whether or not part of a shopping cart), the customer may use such an identifier (which may only have meaning to the customer), whereupon the customer identifier is translated into a corresponding vendor identifier.</u> Lists, such as shown at 901 and 1001, for example, may be selected by the customer from a catalog of such lists. Moreover, lists may be configured for automatic purchase by the customer at a selectable interval.

(emphasis added).

As recited in Kamath, a mapping is made between a customer designation for an item and a vendor's corresponding designation for that item. Thus, a customer can simply utilize their designation for an item when placing an order because the system of Kamath will translate item designations (Kamath, paragraph [0041]). The system described by Kamath, therefore, provides for a translation/mapping from a customer name for an item to the vendor's internal designation. However, Kamath's mapping does not address the <u>availability</u> of that item, under either of its designations.

In claim 1, however, the Applicants recite "evaluating a two-dimensional in-memory data structure, that indicates which of said one or more of the plurality of fulfillers can fulfill which types of said individual order items, to determine whether the order can be fulfilled by a single fulfiller." Mere translation of a name, as provided for in

Kamath, fails to teach or suggest a two-dimensional in-memory data structure "that indicates which of said one or more of the plurality of fulfillers can fulfill which types of said individual order items," because the mapping only indicates the vendor's internal designation for an item and not whether the vendor can fulfill the item. Furthermore, performing the mapping/translation function, as described by Kamath, fails to teach or suggest the evaluation of any data structure, let alone a data structure utilized "to determine whether the order can be fulfilled by a single fulfiller." Thus, even if Anderson were considered in combination with Kamath, the references, alone or in combination, would fail to render claim 1 obvious under § 103 for at least the reasons discussed above. Similarly, claims 6 and 7, which depend from claim 1, would also not be rendered obvious by Anderson in view of Kamath.

Therefore, the Applicant respectfully submits that Anderson fails to anticipate claim 1 under 35 U.S.C. § 102. Claims 6 and 7 depends from claim 1, and contain additional features and limitations. Thus, claims 6 and 7 are also not anticipated by Anderson.

Amended claim 10 recites:

> A method to be performed on a computing device for providing improved fairness when assigning product orders to one or more of a plurality of fulfillers, the method comprising:
> receiving an order that requires fulfillment from one or more fulfillers, said order comprising individual order items;
> determining desirable attributes for fulfilling the order among a set of two or more available fulfillers;
> ranking the set of fulfillers from most favorable to least favorable, based on said desirable attributes;
> evaluating a two-dimensional in-memory data structure, that indicates which of said one or more of the plurality of fulfillers can fulfill which types of said individual order items, to determine whether the order can be fulfilled by a single fulfiller;

when all of the order items of the order can be fulfilled by a single fulfiller, assigning the order to the most-favorable fulfiller that can fulfill all of the order items; and

when all of the order items of the order cannot be fulfilled by a single fulfiller, assigning the order to a subset comprising the most-favorable fulfillers that, collectively, can fulfill all order items of the order.

(emphasis added).

As discussed above, with respect to claim 1, the Examiner acknowledged that Anderson fails to teach or suggest the two-dimensional in-memory data structure as claimed by the applicants. Therefore, since claim 10 recites "evaluating a two-dimensional in-memory data structure, that indicates which of said one or more of the plurality of fulfillers can fulfill which types of said individual order items, to determine whether the order can be fulfilled by a single fulfiller," Anderson also fails to anticipate claim 10. Further, as discussed above, Kamath also fails to teach or suggest the two-dimensional in-memory data structure as claimed by the applicants. Thus, claim 10 is also not anticipated by Anderson, nor rendered obvious by Anderson in view of Kamath. Furthermore, claims 15, 16, and 20 depend on claim 10, and include additional features and limitations.

The Examiner rejected claims 2-5 and 11-14 under 35 U.S.C. § 103(a) as being unpatentable over Anderson in view of alleged knowledge in the art. As discussed above, with respect to independent claims 1 and 10, Anderson fails to teach or suggest the evaluation of a two-dimensional in-memory data structure as claimed in claims 1 and 10. The Examiner took official notice that "minimizing [shipping] cost is old and well established in the retail business." However, neither Anderson nor the alleged knowledge in the art teaches or suggests the evaluation of a two-dimensional in-

memory data structure as claimed in claims 1 and 10. The official notice does not, therefore, supply the limitations missing from Anderson, or a combination of Anderson and Kamath. Therefore, Anderson and the alleged knowledge in the art do not render claims 1 and 10 obvious. Claims 2-5 and 11-14 depend from claims 1 and 10, respectively, and include additional features and limitations. Therefore, claims 2-5 and 11-14 are also not rendered obvious by Anderson in view of the alleged knowledge in the art.

Claims 8-9 and 17-19 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Anderson in view of U.S. Patent Pub. No. US 2002/0026373 of Kamath et al. (hereinafter "Kamath"). The Applicants do not admit that Kamath is prior art and reserve the right to swear behind the reference at a later date.
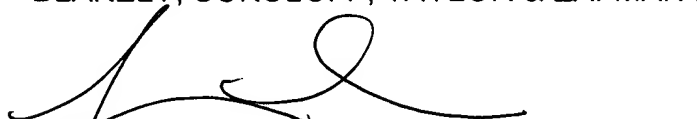
As discussed above, Anderson fails to teach or suggest each and every element of claims 1 and 10. Furthermore, as discussed above, Kamath in combination with Anderson also fails to teach or suggest limitations directed to the evaluation of a two-dimensional in-memory data structure as claimed in claims 1 and 10. Therefore, Anderson and Kamath, alone or in combination, fail to teach or suggest the limitations of claims 1 and 10. Claims 8-9 and 17-19 depend from claims 1 and 10, respectively, and contain additional features and limitations. Thus, claims 8-9 and 17-19 are also not rendered obvious by Anderson in view of Kamath.

In view of the foregoing amendments and remarks, Applicants respectfully submit that all pending claims are in condition for allowance, and such action is respectfully requested. If a telephone interview would expedite the prosecution of this application, the Examiner is invited to contact Judith Szepesi at (408) 720-8300.

If there are any additional charges/credits, please charge/credit our deposit

account no. 02-2666.

Respectfully submitted,

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